Briefing

The investment of the Norwegian Pension Fund in Elbit Systems:

Human Rights and International Humanitarian Law violations in Palestine
1. Introduction

This briefing raises serious concerns about the Norwegian Petroleum Fund’s current investments in Elbit Systems, one of Israel’s largest “security” and “defence” companies. The Fund’s investments in Elbit are cause for alarm because the company is actively contributing to and involved in violations of international law, including grave breaches of international humanitarian law (i.e. war crimes) and gross and systematic violations of human rights. Elbit supports and contributes to these violations primarily through:

- Its prominent position in the Israeli military industry, including the manufacturing of **arms and equipment used against Palestinian and Lebanese civilians**;

- Its involvement in the security and homeland defence industries, including the provision of **surveillance and electronics for the illegal Wall and settlements**.

According to the Government Pension Fund’s ethical guidelines, however, the Fund:

“**should not make investments which constitute an unacceptable risk that the Fund may contribute to unethical acts or omissions, such as violations of fundamental humanitarian principles, serious violations of human rights, gross corruption or severe environmental damages.**”

Similarly, Article 4.4 of the ethical guidelines states that:

“**The Council shall issue recommendations on the exclusion of one or several companies from the investment universe because of acts or omissions that constitute an unacceptable risk of the Fund contributing to: serious or systematic human rights violations, such as murder, torture, deprivation of liberty, forced labour, the worst forms of child labour and other forms of child exploitation; serious violations of individuals’ rights in situations of war or conflict; severe environmental damages; gross corruption; other particularly serious violations of fundamental ethical norms.**”

Point 4.4 further states that:

“**The Council shall issue recommendations on negative screening of one or several companies on the basis of production of weapons that through their normal use may violate fundamental humanitarian principles.**”
2. Elbit Systems

Elbit Systems is one of Israel’s largest security and defense firms, specializing in intelligence and surveillance systems, UAVs (unmanned aerial vehicles, or drones) and homeland security systems. It supplies the Israeli military, navy and air force with a variety of equipment, and has profited greatly from Israel’s ongoing occupations and attacks against the Palestinian and Lebanese people. Indeed, Elbit continues to modify and develop its products based on the expertise gained by their use on these populations, and as a result, the company has been able to flourish in the global market.

Elbit violates the Petroleum Fund’s ethical guidelines in two primary ways.

1. Provision of its UAVs, electro optics systems and other military systems, which are used extensively by the Israeli “Defence” Force (IDF).

Elbit continues to supply the IDF with the full knowledge that the IDF uses this equipment and technology to commit massacres against the Palestinian and Lebanese people. This report argues that Elbit technology is regularly and ‘normally’ used in war crimes, such as targeted killings and the firing of ammunition (here, missiles whose blast is intended to cause excessive shrapnel) designed to inflict widespread injury by drones. Elbit is fully aware that its technology enables the IDF to continue routine operations and military tactics that violate human rights and international law.

2. Provision of surveillance equipment and electronic systems along the Wall and settlements.

International Court of Justice in July 2004 ruled the Wall illegal in 2004. Israel is obligated to stop and dismantle the Wall while the international community is obligated to ensure the implementation of the verdict. However, construction continues to be built and is equipped with Elbit technology while the international community stands idly by.

We urge you to:

- Divest from Elbit Systems on the grounds that it is in clear violation of the Fund’s ethical guidelines;
- Investigate other investments in Israeli or international firms that are in violation of the ethical codes;
- Work constructively in supporting the rights of the Palestinian people under international law through the adoption of the Palestinian civil society call for BDS against Israel until it complies with international law, the ICJ decision on the Wall and all relevant UN resolutions.

The following pages will detail some of Elbit’s most offensive activities, and the ways in which these violate the Petroleum Fund’s ethical guidelines.
2.1 UAVs

Elbit Systems is a world-leader in the UAV industry and is responsible for the research, development and production of several types of drones used by Israeli and international militaries. These drones have been used to both enable and commit war crimes in Lebanon, the West Bank and Gaza.

The crimes committed against the Palestinian and Lebanese people, however, bring tangible financial benefit to Elbit Systems. Like all Israeli military technology, Elbit UAVs are "'battle-tested,' giving [them] an operational history by which the reliability and effectiveness of the machines can be judged. Every military operation, not by intent per se, acts as an advertisement for the weapons and techniques used."¹

Elbit-manufactured drones are equipped with highly advanced optics that allow the individual who is operating them from a remote location to see even the details of a target's clothing. A major in the Israeli army has recently been quoted as saying that the optics systems on the UAVs allow the operator to clearly distinguish between combatants and civilians.² The wide-scale killing of civilians in both Lebanon and Palestine by drone-fired missiles indicates that the drones are used to target civilians. Despite this fact, Elbit continues to supply the IDF with the drones, knowing full well that they will be deliberately used to perpetrate these war crimes.

Lebanon

UAVs were widely used in the 2006 war on Lebanon, which killed some 1,200 people and injured 4,500. UAVs were used to commit numerous attacks on civilians, a sample of which may be found below:

• On July 19, 2006 following an attack in Srifa that killed four people, a number of villagers attempted to flee the area. They were prevented from doing so by Israeli helicopters and drones, and were forced to take refuge in the basements of large houses in the “Moscow” quarter of the village. Israeli forces fired a number of rockets at the quarter, collapsing 13 homes and killing 26 people³;
• On July 23, 2006, a missile fired from a UAV hit two Lebanese Red Cross ambulances in Qana that were transporting wounded individuals. Six ambulance drivers and three patients were wounded in the attack⁴;
• On August 11, 2006, hundreds of civilian cars gathered from Marja`youn and the surrounding villages to flee northwards from the fighting. Two UNIFIL armored personnel carriers escorted the convoy. Near the Beka` Valley, an Israeli UAV fired on the convoy, killing seven people and wounding 32.⁵

¹ http://electronicintifada.net/v2/article10312.shtml
² http://www.guardian.co.uk/world/2009/mar/23/gaza-war-crimes-drones
³ Human Rights Watch, Why they Died, September 2007, 103
⁴ ibid. 158
⁵ ibid. 162-3
Palestine

The recent attacks on Gaza in December 2008 and January 2009 provided Elbit with a high profile showcase for its UAVs, which were used extensively throughout the bombardment campaign. Although it is a war crime to target civilian populations, Amnesty International, the Palestinian Centre for Human Rights (PCHR), the British newspaper The Guardian, and other independent observers have reported numerous instances of UAVs firing on civilians and medical personnel. **In the 23-day assault on Gaza, missiles fired from drones were directly attributed to the killing of 78 civilians (29 of whom were children), and wounding 73.** The following is a partial list of some of the attacks committed with drones:

- In the first days of the assault on Gaza, drones fired upon an ambulance evacuating wounded people following a bombing east of Gaza City. A paramedic and a physician were both killed;

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6 The following incidents and number of deaths are taken from daily reports that were issued by PCHR throughout the assault on Gaza. Please see their website for more detailed accounts.
http://www.pchrgaza.org/index.html
• On January 3, 2009, when Palestinians were praying at the Martyr Ibrahim al-Maqadma Mosque in Jabalya, northern Gaza, a drone fired a missile at them. Twelve people were instantly killed, three more succumbed to injuries in the hospital, and 30 people were wounded;
• On January 14, 2009, a total of 27 Palestinians, 6 of whom were children, were killed in a series of UAV strikes;
• On January 16, 2009, several members of the al-Jarah family were having tea in a courtyard outside their home in Gaza City, when they saw a drone flying overhead. They watched as the drone fired a missile directly at their courtyard, instantly killing six members of the family;
• On January 18, 2009, hours after the ceasefire allegedly came into effect, a drone fired two missiles on the Amal area east of Beit Hanoun, killing an 11 year-old girl and her mother;

In its investigation following the attacks on Gaza, Amnesty International found evidence of a new type of missile launched from the unmanned drones. According to the report, this new missile explodes into large numbers of tiny sharp-edged metal cubes, ranging from 2mm²-4mm² in size. It is designed to cause maximum injury, as the explosions are powerful enough to rip a person into pieces, while the pellets embed themselves deep inside the body.  

The assault on Gaza was by no means the first time in which drones were used against Palestinian civilians. PCHR, which is based in Gaza, has been receiving reports about missiles being fired from UAVs for over three years. According to the PCHR and Al-Haq, unmanned drones have become a primary means of carrying out extrajudicial killings, which are an official and integral part of Israeli military policy. From September 2000 until June 2008, 754 Palestinians were murdered by extrajudicial killing, including 233 bystanders, 71 of whom were children. Drones often figure into these operations, and several are mentioned below:

- In September 2006, a drone fired at a car in the al-Junaina neighborhood, killing two people and injuring 26 bystanders, including 5 children;
- In December 2007, four civilians were killed from shrapnel from a drone-fired missile. The attack was meant to execute two suspected members of the al-Quds Brigades.

### International law and extrajudicial killing

As the Occupying Power, Israel is legally obligated to respect international humanitarian law (IHL), which prohibits wilful killings of protected persons. Wilful killings are considered a grave breach of the Fourth Geneva Convention under article 147. In addition the Israeli policy of extrajudicial killing fails, by targeting civilians, to respect the fundamental principle of the distinction between combatants and civilians. Moreover, it regularly fails to respect the principle of proportionality by employing excessive lethal means leading to the death or injury of bystanders. Finally, targeted assassinations, which are carried out in non-combat situations, cannot be justified by military necessity.

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8. [http://www.mathaba.net/news/?x=584090](http://www.mathaba.net/news/?x=584090)
12. Ibid. 30
2.2 Small arms and bombs

In addition to supplying the IDF with armed UAVs, Elbit also manufactures several other types of military equipment and technology that are used to perpetrate atrocities against the Palestinian and Lebanese people:

- Elbit supplies Israeli infantry troops with the “Falcon”, a sighting device that is fitted onto a soldier’s rifle. According to the Golani Brigade, a unit which has been using the Falcon for some time, the sight has “led to a noticeable improvement in accuracy and thus killing power by the average rifleman.” The Golani Brigade is notorious for its horrendous treatment of Palestinians; it has inflicted countless civilian casualties since it was formed in 1948. It was involved in the 2002 massacre in the Jenin refugee camp, has perpetrated invasions and assassinations in Gaza since 2003, and was involved in some of the heaviest fighting in Gaza City during the recent war.

- The IDF employs Elbit’s MARS handheld thermal imager and target acquisition system for use by ground troops. MARS is designed for close combat and urban warfare setting, meaning it is highly likely that it was used in Gaza, where 82% of those who were killed were civilians.

- Elbit also equips the Israeli Air Force (IAF) with Lizard laser-guided bombs, which are designed for air-to-surface attacks. According to Amnesty International’s war crimes report, many fragments of laser-guided missiles were found on streets, in school playgrounds, in hospitals, and in people’s homes, thus indicating that the bombs were used extensively against civilian targets.

The Lizard laser-guided bomb displayed at a Paris air show.

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14 http://www.smallarmsreview.com/march.htm
15 http://www.haaretz.com/hasen/spages/1053125.html
17 Fueling Conflict, p. 3
2.3 The Wall

In addition to its direct contributions to the IDF’s massacres and criminal actions through equipment and technology, Elbit also violates the Fund’s ethical guidelines through its contribution to the “security” infrastructure along the Wall in the West Bank.

- Elbit and its subsidiaries supply and incorporate electronic detection fences and LORROS surveillance cameras for the Wall in the Jerusalem area, as well as around the illegal Ariel settlement.
- Elbit also developed unmanned ground vehicles (UGVs), which are used to help patrol routes along the buffer no-go zone.
- Elbit’s TORC2H system, which is designed to enhance border patrol activities by collecting data and disseminating it to troops, has been installed in Israel’s central command centre, facilitating remote surveillance of specific areas along the Wall.

This runs contrary to the [Norwegian Pension] Fund’s ethical guidelines because the Wall has been deemed illegal by the International Court of Justice (ICJ). In its 2004 Advisory Opinion, the ICJ ruled that Israel’s construction of the wall in the oPt, including in and around East Jerusalem, is contrary to international law and that Israel is obliged to cease all construction, to dismantle the Wall and to make reparation for all damage caused by its construction.\(^\text{18}\)

The Wall:

- Is a primary means of land theft and snakes through Palestinian land, cutting deep into the occupied West Bank to annex land and vital water resources. Together with the settlements, military zones, ditches and bypass roads, it will de facto annex nearly 50\% of West Bank land, and divides the territory into six ghettos.
- Destroys land and trees while isolating thousands of dunums for the use of settlements. In 2007 alone, 3,143 dunums of land were confiscated, and over 2,480 olive trees were uprooted.\(^\text{19}\)
- Serves as a pretext for home demolitions. Demolition orders can be issued to any family whose home is in the path of the Wall or is deemed to be too close to the Wall, regardless of the fact that most of these homes were built long before the Wall was constructed. Since 2002, some 3,270 military demolitions have been carried out, meaning Palestinian homes were arbitrarily destroyed by Israeli forces for purposes such as clearing a piece of land for the Wall or its associated regime.\(^\text{20}\)

As such, the Wall leads to gross violations of the fundamental human right to housing\(^\text{21}\) as well as breaches of Israel’s obligations as an occupying power under the

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\(^{20}\) ICAHD Statistics on House Demolitions (1967-2007)

\(^{21}\) International Covenant on Economic, Social and Cultural Rights (1966), Article 11 (1).
Fourth Geneva Convention to ensure the welfare of the civilian population and refrain from destroying real or personal property belong to private persons.  

- Impedes freedom of movement for Palestinians in the oPt. The ICJ found the restrictions on movement created by the Wall to be in violation of the International Covenant on Civil and Political Rights and also consequently responsible for violations of the rights to work, health, education and an adequate standard of living, guaranteed by the International Covenant on Economic, Social and Cultural Rights. In addition to the 538 permanent checkpoints and other military obstructions to movement that exist inside the West Bank, there are 34 fortified terminals along the path of the Wall, where Palestinians are regularly beaten, detained and humiliated.  
- Acts, together with the checkpoints and terminals, to seal off East Jerusalem from the rest of the West Bank, which is the economic, social and cultural heart of the West Bank. With the construction of the Wall, however, it has become virtually impossible for Palestinians living in the West Bank to obtain permits to enter Jerusalem, while those living in Jerusalem are forced into ever-shrinking ghettos.  
- Due to the above impacts, the Wall functions as a tool for inducing forced displacement of Palestinians. Currently, 257,265 people living in 60 localities across the West Bank are completely isolated by the Wall and the settlements from the rest of the West Bank and face eventual displacement if the Wall is not immediately dismantled. As the Wall serves to displace Palestinian communities from their lands and incorporate the majority of illegal settlements into Israel, this amounts to the forcible transfer of the Palestinian population and a creeping ethnic cleansing, which are gross violations of international human rights law which may amount to crimes against humanity.

Israel has so far ignored the 2004 ICJ opinion and related UN resolutions. The construction of the Wall is ongoing, with some 500 km of the total length of 790 km having been completed so far. The gross violations of international human rights and serious breaches of humanitarian law are thus steadily continuing, as dozens more villages and hundreds of thousands more people will have their property, lands and livelihoods destroyed if construction is not halted.

The International Court of Justice advisory opinion on 9 July 2004 confirming the illegality of the Wall further binds all states not to recognize the illegal situation created by the Wall or to render aid or assistance in maintaining it. All States Parties to the Fourth Geneva Convention are obliged to ensure Israel complies with international humanitarian law. This lays clear obligations on international states and actors.

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22 Fourth Geneva Convention, Article 53.
3. Conclusions

The Council of Ethics has a responsibility to uphold the Petroleum Fund's ethical guidelines, which state on numerous occasions that the Fund should not invest in companies that put it at risk of being complicit in serious human rights violations. The Fund’s investment in Elbit Systems, however, clearly breach the ethical guidelines, as Elbit is heavily involved in perpetrating and facilitating egregious violations of international human rights and humanitarian law. Thus, by investing in this company, the Fund is contributing to the ongoing abuses of Palestinian human rights and fundamental humanitarian principles.

Given the evidence presented above, we urge you to:

• Divest from Elbit Systems on the grounds that it is in violation of the Fund’s ethical guidelines;
• Investigate other investments in Israeli or international firms that are in violation of the ethical codes;
• Work constructively in supporting the rights of the Palestinian people under international law through the adoption of the Palestinian civil society call for BDS against Israel until it complies with international law, the ICJ decision on the Wall and all relevant UN resolutions

The Petroleum Fund’s current investments in Elbit serves to undermine human rights by supporting a company that enables, encourages, and profits from Israel’s serious human rights abuses and breaches of international law. By continuing to invest in Elbit, the Petroleum Fund is effectively sanctioning and promoting these violations by making them politically acceptable and profitable. The Fund must end this practice by divesting from Elbit and pressuring Israel to adhere to international law and to respect Palestinian human rights.